

Third, the Sunshine bill requires courts considering whether to approve proposed consent decrees and settlement agreements to account for public comments and compliance with regulatory process statutes and executive orders. This bill would facilitate public participation by allowing comment on any issue related to the matters alleged in the complaint or addressed in the proposed agreement. Government agencies would be required to respond to comments, and the court would assess whether the proposed schedule allows sufficient time for real and meaningful, public comment on the regulation.

Fourth, the bill requires the Attorney General or, where appropriate, the defendant agency's head, to certify to the court that he or she has approved any proposed consent decree or settlement agreement that includes terms that: convert into a duty a discretionary authority of an agency to propose, promulgate, revise, or amend regulations, commit an agency to expend funds that have not been appropriated and budgeted, commit an agency to seek a particular appropriation or budget authorization, divest an agency of discretion committed to it by statute or the Constitution, or otherwise afford any relief that the court could not enter under its own authority.

Finally, the Sunshine bill makes it easier for succeeding administrations to successfully move the courts for modifications of a prior administration's consent decrees by providing for de novo review of motions to modify if the circumstances have changed.

Sue-and-settle litigation damages the transparency, public participation and judicial review protections Congress has guaranteed for all of our citizens in the rulemaking process.

Regulations are laws. The procedure and process used to create them are important. They are part of our system. The American system of law-making and judicial review is a model for the world. Our system should not be distorted or manipulated.

Regulations must be made in the open, through the procedures and processes established under our laws.

The Sunshine for Regulatory Decrees and Settlements Act will help to ensure that established and well-grounded protections remain in place, while maintaining the government's ability to enter into consent decrees and settlement agreements, when appropriate.

I urge all of my colleagues to work with me and to support this legislation.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2532. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table.

SA 2533. Mr. BARRASSO (for himself, Mr. HATCH, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2534. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2535. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2536. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2537. Mr. COBURN (for himself and Mr. BURR) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2538. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2539. Mr. KYL (for himself and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2540. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2541. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2542. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2543. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2544. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2545. Mr. MANCHIN (for himself and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2546. Mrs. SHAHEEN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2547. Mr. ROBERTS (for himself, Mr. HATCH, Mr. RUBIO, Mr. BURR, Ms. COLLINS, Mr. BROWN of Massachusetts, Mr. COBURN, Mr. ALEXANDER, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2548. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2549. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2550. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2551. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 pro-

posed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2552. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2521 proposed by Mr. REID (for Ms. LANDRIEU) to the bill S. 2237, supra; which was ordered to lie on the table.

SA 2553. Mr. REID (for Mrs. GILLIBRAND (for herself, Mr. ISAKSON, Mr. CHAMBLISS, and Mr. DURBIN)) proposed an amendment to the bill H.R. 2527, to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

#### TEXT OF AMENDMENTS

SA 2532. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2237, to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. . SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS BY SMALL BUSINESS CONCERNS.

Section 3506 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act"), is amended by adding at the end the following:

"(j) SMALL BUSINESSES.—

"(1) SMALL BUSINESS CONCERN.—In this subsection, the term 'small business concern' has the same meaning given as in section 3 of the Small Business Act (15 U.S.C. 632).

"(2) IN GENERAL.—In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of the agency shall not impose a civil fine on the small business concern unless the head of the agency determines that—

"(A) the violation has the potential to cause serious harm to the public interest;

"(B) failure to impose a civil fine would impede or interfere with the detection of criminal activity;

"(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

"(D) the violation was not corrected on or before the date that is 6 months after the date on which the small business concern receives notification of the violation in writing from the agency; or

"(E) except as provided in paragraph (3), the violation presents a danger to the public health or safety.

"(3) DANGER TO PUBLIC HEALTH OR SAFETY.—

"(A) IN GENERAL.—In any case in which the head of an agency determines under paragraph (2)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (2)(E), determine not to impose a civil fine on the small business concern if the violation is corrected not later than 24 hours after receipt by the owner of the small business concern of notification of the violation in writing.

"(B) CONSIDERATIONS.—In determining whether to allow a small business concern 24 hours to correct a violation under subparagraph (A), the head of an agency shall take into account all of the facts and circumstances regarding the violation, including—

"(i) the nature and seriousness of the violation, including whether the violation is